

# **EXHIBIT 9**

## **Second Deposition of Andrew Zimbalist**

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

- - - - - x

CUNG LE, NATHAN QUARRY, JOHN FITCH,  
BRANDON VERA, LUIS JAVIER VAZQUEZ,  
and KYLE KINGSBURY, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

Case No.

-against- 2:15-cv-01045-RFB(PAL)

ZUFFA, LLC, d/b/a ULTIMATE FIGHTING  
CHAMPIONSHIP and UFC,

Defendants.

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H I G H L Y C O N F I D E N T I A L

Videotaped oral deposition of  
ANDREW ZIMBALIST, Ph.D., taken pursuant  
to notice, was held at the law offices  
of Cohen Millstein, 88 Pine Street, New  
York, New York, commencing January 26,  
2018, 10:13 a.m., on the above date,  
before Leslie Fagin, a Court Reporter  
and Notary Public in the State of New  
York.

- - -

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<p>1 A. Zimbalist - Confidential</p> <p>2 Q. If I was looking at MRP of labor</p> <p>3 for the firm as a whole, that should be</p> <p>4 whatever, 10 plus 10, \$20, is that right?</p> <p>5 A. If there are no diminishing returns</p> <p>6 -- the physical product is not declining and</p> <p>7 the price is staying the same, right?</p> <p>8 Q. Yeah.</p> <p>9 A. Of the output, then you would add</p> <p>10 up the combined -- add up the marginal</p> <p>11 revenue product of the 10 workers in order to</p> <p>12 know what the combined increment to value</p> <p>13 that was being produced by these 10 workers.</p> <p>14 Q. Let's go back to my question</p> <p>15 because I am bad at math. Let's say one of</p> <p>16 them now is making \$30 worth of yarn and one</p> <p>17 of them is making \$40 worth of yarn, okay, so</p> <p>18 the marginal revenue product of the first</p> <p>19 worker is -- that's making \$30 worth is</p> <p>20 making 10, is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And the revenue marginal product</p> <p>23 making \$40 of worth of yarn is now 20?</p> <p>24 MR. CRAMER: Objection to form,</p> <p>25 incomplete hypothetical.</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 and because there is a modicum of pricing</p> <p>3 power that a firm might have in an industry,</p> <p>4 that as a result of that, they also have</p> <p>5 modicum of monopsony power and because of</p> <p>6 that, the worker will not get paid his or her</p> <p>7 marginal revenue product, is that what you</p> <p>8 are saying?</p> <p>9 Q. Let's start with that question.</p> <p>10 A. So I think it's very difficult to</p> <p>11 answer. I think that it's possible for there</p> <p>12 to be a modicum of pricing power in the</p> <p>13 product market and to have very close to a</p> <p>14 competitive labor market and an outcome where</p> <p>15 workers, on average, are getting paid roughly</p> <p>16 their marginal revenue product, it's very</p> <p>17 possible that could happen.</p> <p>18 It's also a concept or it's a</p> <p>19 scenario that's very hard to test, very hard</p> <p>20 to test empirically because economists</p> <p>21 haven't identified a satisfactory way to</p> <p>22 directly measure marginal revenue product in</p> <p>23 most cases, most industries.</p> <p>24 Q. Now, you said that there might be a</p> <p>25 difference between what the worker gets paid</p>
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<p>1 A. Zimbalist - Confidential</p> <p>2 Are we holding all else constant?</p> <p>3 Q. All else constant.</p> <p>4 A. That sounds right.</p> <p>5 Q. And the collective marginal revenue</p> <p>6 product of labor for my workers as a whole is</p> <p>7 \$30, is that right?</p> <p>8 A. Yes.</p> <p>9 Q. That's not how the real world</p> <p>10 works, right, there are lots of other</p> <p>11 complicating factors?</p> <p>12 MR. CRAMER: Objection to form.</p> <p>13 A. I believe so.</p> <p>14 Q. And it's fair to say that most</p> <p>15 industries are not perfectly competitive, is</p> <p>16 that true?</p> <p>17 A. Yes.</p> <p>18 Q. So most, in the scenario I gave, in</p> <p>19 the real world, workers generally wouldn't be</p> <p>20 getting all of the MRP, is that right?</p> <p>21 A. So to make sure I'm understanding</p> <p>22 you, you are saying that in the real world,</p> <p>23 the economist's model of a perfectly</p> <p>24 competitive industry doesn't usually obtain,</p> <p>25 sometimes it does, but usually it doesn't,</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 and the worker's marginal revenue product</p> <p>3 that would be attributable to some modicum of</p> <p>4 monopsony power, is that right?</p> <p>5 A. It's possible, yes.</p> <p>6 Q. Are there other explanations for</p> <p>7 why a worker might not get paid MRP, other</p> <p>8 than the exercise of monopsony power?</p> <p>9 A. Yes.</p> <p>10 Q. Can you give me an example?</p> <p>11 A. You can have a repressive State</p> <p>12 Government that outlaws collective</p> <p>13 bargaining, outlaws minimum wages, outlaws</p> <p>14 other provisions for protecting the workforce</p> <p>15 and that would be an outcome where you don't</p> <p>16 get full payment of marginal revenue product.</p> <p>17 There have been some studies in the</p> <p>18 economics literature that find that the</p> <p>19 reduction in the level of unionization can</p> <p>20 contribute to workers being paid below their</p> <p>21 marginal revenue product.</p> <p>22 Q. When you have a union, if it</p> <p>23 represents all of the workers, is the union</p> <p>24 obtaining a competitive salary or is it</p> <p>25 obtaining a salary that's based off of the</p>

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<p>1 A. Zimbalist - Confidential</p> <p>2 exercise of monopoly power?</p> <p>3 MR. CRAMER: Objection to form,</p> <p>4 incomplete hypothetical.</p> <p>5 Q. All else being equal.</p> <p>6 MR. CRAMER: Same objection.</p> <p>7 A. I think unionization, you often</p> <p>8 model that in terms of bilateral monopolies,</p> <p>9 bargaining power on both sides of the fence.</p> <p>10 You are asking me that unions who</p> <p>11 -- so we are talking about union shops which</p> <p>12 we don't always have because there are right</p> <p>13 to work laws, too. You are talking about</p> <p>14 union shops that represent all of the</p> <p>15 workers, that is it possible that a union has</p> <p>16 so much power that they will force the wage</p> <p>17 rate above the marginal revenue product, is</p> <p>18 that what you are asking me?</p> <p>19 Q. I'm asking if they're powerful</p> <p>20 enough that they exercise market power in the</p> <p>21 price that they set for labor?</p> <p>22 MR. CRAMER: Objection to form,</p> <p>23 incomplete hypothetical.</p> <p>24 A. So market power is defined in terms</p> <p>25 of affecting the price for your service and</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 make an error and for a time period before</p> <p>3 they went out of business, do that, yes, it's</p> <p>4 possible.</p> <p>5 Q. Is it possible that unions could</p> <p>6 obtain a wage rate that's above the marginal</p> <p>7 revenue product for some members of the</p> <p>8 union?</p> <p>9 MR. CRAMER: Objection to form,</p> <p>10 incomplete hypothetical.</p> <p>11 A. You are asking me if it's possible,</p> <p>12 not if it's sustainable, but if it's possible</p> <p>13 for that to happen for a period of time, yes,</p> <p>14 is that what you are asking me?</p> <p>15 Q. Yes.</p> <p>16 A. Yes, it's possible.</p> <p>17 Q. Have you, in your own work,</p> <p>18 encountered a situation where you have seen</p> <p>19 that?</p> <p>20 A. I did some estimates on the</p> <p>21 marginal revenue product and salary paid to</p> <p>22 major league baseball players looking at</p> <p>23 three different categories of major league</p> <p>24 baseball players. I did that in the early</p> <p>25 1990s and my recollection is that looking at</p>
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<p>1 A. Zimbalist - Confidential</p> <p>2 the unions have the ability to do that, the</p> <p>3 answer is yes.</p> <p>4 Q. So, for instance, if a union can</p> <p>5 call a strike and stop work for all workers</p> <p>6 for an employer, that would give the union</p> <p>7 the ability to exercise market power, is that</p> <p>8 right?</p> <p>9 MR. CRAMER: Objection to form,</p> <p>10 incomplete hypothetical.</p> <p>11 A. Unions could, presumably use a</p> <p>12 variety of tactics to ensure that the wage</p> <p>13 rate was closer to the marginal revenue</p> <p>14 product and striking is one potential tactic</p> <p>15 they could use.</p> <p>16 Q. Could they ensure that the wage</p> <p>17 rate was greater than the marginal revenue</p> <p>18 product?</p> <p>19 MR. CRAMER: Objection to form,</p> <p>20 incomplete hypothetical.</p> <p>21 A. I think that companies would be in</p> <p>22 deep trouble if they followed a practice of</p> <p>23 paying workers more than their marginal</p> <p>24 revenue product.</p> <p>25 Is it possible that a company can</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 free agents, that at least there was some</p> <p>3 evidence for some years that they were paid</p> <p>4 above their marginal revenue product. That's</p> <p>5 my recollection.</p> <p>6 Q. But I think you said companies</p> <p>7 would be in trouble if they paid all of their</p> <p>8 workers more than the marginal revenue</p> <p>9 product.</p> <p>10 Why is that?</p> <p>11 A. Well, what would happen in that</p> <p>12 case, and assuming the other factors of</p> <p>13 production were receiving a fair compensation</p> <p>14 for their contribution is that the company</p> <p>15 would lose money.</p> <p>16 Q. But that's not what you observed in</p> <p>17 major league baseball, is that right? You</p> <p>18 didn't observe all workers making more or all</p> <p>19 athletes making more than their marginal</p> <p>20 revenue product, correct?</p> <p>21 A. Correct. Arbitration eligible</p> <p>22 players were paid somewhat below their</p> <p>23 marginal revenue product if I recall</p> <p>24 correctly and prearbitration players</p> <p>25 basically, basically players still under</p>

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2 reserve were paid a lot less than their  
3 marginal revenue product.

4 Q. So we talked about the exercise of  
5 a modicum of monopsony power accounting for  
6 that difference between MRP and what workers  
7 were actually paid in the real world and I  
8 think you talked about certain government  
9 regulations related to unionization.

10 Is there anything else that you can  
11 think of that would explain why MRP differs  
12 from what employers or what labor is paid?

13 MR. CRAMER: Objection to form.

14 A. I think that the two elements that  
15 I would focus on are; No. 1, the productivity  
16 of the workers, marginal revenue product of  
17 the workers and; No. 2, the bargaining power  
18 between each of the two sides, management and  
19 labor. There might be some other factors  
20 that enter into the configuration of  
21 bargaining power between management and  
22 workers. I think that the major element  
23 there would be the ability of the workers to  
24 come together, usually through a union, not  
25 always, but usually through a union and that

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2 would give them more bargaining power.

3 It may be possible also to be an  
4 association of management in an industry that  
5 would give management more bargaining power,  
6 so that's what I'm thinking of as I  
7 contemplate your question this morning.

8 I suspect that there are other  
9 small elements that could enter the picture.

10 Q. Is bargaining power the same thing  
11 as either monopsony or buyer power or market  
12 power?

13 A. Is bargaining power the same thing  
14 as monopsony power?

15 Q. When you say, bargaining power, do  
16 you essentially mean that either the buyer  
17 has monopsony power or some version of that  
18 buyer power or that the sellers have monopoly  
19 power or buyer power?

20 MR. CRAMER: Objection to form.

21 A. I'm saying that some of the  
22 determination of the wage rate will be  
23 determined by the market structure and some  
24 of it might be determined by political  
25 factors that effect the solidarity of either

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2 side of the bargaining table.

3 Q. So is market structure another word  
4 for what we think of as market power or --

5 A. It's not another word for it, but  
6 it's related to it.

7 Q. How is it related?

8 A. Well, market structure, as  
9 economists use it, refer to the -- on the  
10 ownership side, the concentration ratio,  
11 usually, and on the input side, refers to how  
12 many employers there are in the industry.

13 Q. So that still is explaining the  
14 difference between MRP and labor by some  
15 modicum of monopsony power, isn't it, if you  
16 are saying it's related to market structure?

17 A. Yes.

18 Q. It's not a separate explanation for  
19 why there would be a difference?

20 A. You mean market structure and  
21 monopsony, two separate explanations?

22 Q. Yes.

23 A. No, they're related to each other.

24 Q. In the example I gave, is there  
25 anything -- actually, let me just ask it

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2 slightly differently.

3 A. As you are contemplating your  
4 question, it occurs to me that I left out a  
5 factor.

6 Q. Okay.

7 A. Which is litigation. Litigation  
8 can effect the relationship between  
9 compensation and MRP.

10 Q. How so?

11 A. How so.

12 Q. Yes.

13 A. Well, if the plaintiffs prevail in  
14 this case and it goes all the way through and  
15 at the end of the day, there is some bargain  
16 reached by the two sides that would be  
17 presented before the judge, that would create  
18 a new structure, a new set of structures and  
19 institutions in the labor market that, in my  
20 view, would be very likely to lead to a  
21 substantial increase in compensation.

22 Q. But it could depend on which side  
23 was right, whether that increase was, in fact  
24 --

25 A. All I'm asserting now is it -- you

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<p>1 A. Zimbalist - Confidential</p> <p>2 and you want me to tell you if I know if</p> <p>3 they're the same ratio or not?</p> <p>4 Q. Yes.</p> <p>5 A. I would want to see the data.</p> <p>6 Q. What data would you want to see?</p> <p>7 A. I would want to see data on revenue</p> <p>8 produced at the games and I would want to see</p> <p>9 data on the payrolls of the teams that were</p> <p>10 playing.</p> <p>11 Q. Is that all the data that you need</p> <p>12 to --</p> <p>13 A. I would want to start with that</p> <p>14 data and as I work with it, I might ask for</p> <p>15 additional data.</p> <p>16 Q. What kind of additional data would</p> <p>17 you potentially ask about?</p> <p>18 A. As I said, I would want to work</p> <p>19 with the data and see where it was leading</p> <p>20 me.</p> <p>21 One of the factors that would come</p> <p>22 into play is my sense that there is a very</p> <p>23 close correspondence in the professional team</p> <p>24 sports between compensation and MRP because</p> <p>25 those leagues have, relatively speaking,</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 mouth, tell me what you think that</p> <p>3 relationship is?</p> <p>4 A. Again, I'm not sure now which</p> <p>5 entities or events you are talking about. We</p> <p>6 talked about within a league and between</p> <p>7 leagues.</p> <p>8 Q. Between leagues.</p> <p>9 A. Just to make sure I understand, you</p> <p>10 are asking me about the ratio of combined</p> <p>11 athlete MRP to event revenue in baseball</p> <p>12 relative to the same ratio in football and</p> <p>13 you are saying within all baseball games,</p> <p>14 it's the same, and within all football games,</p> <p>15 it's the same.</p> <p>16 And, now, you are asking me, again,</p> <p>17 I think you asked me this already, whether or</p> <p>18 not I believe, sitting here today, that those</p> <p>19 two ratios would be different and I told you</p> <p>20 earlier that I think they would be very</p> <p>21 similar, maybe not identical, but very</p> <p>22 similar and -- I will stop there.</p> <p>23 Q. Have you done any actual</p> <p>24 quantitative analysis to determine whether or</p> <p>25 not they are similar?</p>
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<p>1 A. Zimbalist - Confidential</p> <p>2 competitive labor markets.</p> <p>3 Q. What about the market makes it a</p> <p>4 competitive labor market?</p> <p>5 A. The teams bid against each other</p> <p>6 for players.</p> <p>7 Q. Those leagues also have collective</p> <p>8 bargaining agreements between the athletes</p> <p>9 and the owners, is that right?</p> <p>10 A. Between the union representing the</p> <p>11 athletes and the joint representation of</p> <p>12 owners, yes, there is collective bargaining,</p> <p>13 it's multi-party collective bargaining.</p> <p>14 Q. And would you describe those</p> <p>15 relationships as bilateral monopolies?</p> <p>16 MR. CRAMER: Objection to form.</p> <p>17 A. I probably would describe it that</p> <p>18 way.</p> <p>19 Q. So I think my original question</p> <p>20 about whether there would be variation</p> <p>21 between the ratio of marginal revenue product</p> <p>22 of athletes to event revenue, you said that</p> <p>23 you believed that they would be the same,</p> <p>24 that they would be similar or close, is that</p> <p>25 right or -- I don't want to put words in your</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 A. In the last 12 seconds, I just did</p> <p>3 an exhaustive analysis.</p> <p>4 No, I told you earlier that I have</p> <p>5 not subjected either of those two to formal</p> <p>6 study.</p> <p>7 Q. Outside of your belief, you don't</p> <p>8 have any empirical study that would</p> <p>9 demonstrate that, correct?</p> <p>10 MR. CRAMER: Demonstrate what?</p> <p>11 Q. That the relationship between the</p> <p>12 ratio of marginal revenue product of athletes</p> <p>13 to event revenue is what you've described in</p> <p>14 your last answer?</p> <p>15 A. Correct.</p> <p>16 Q. When you say, correct, what do you</p> <p>17 mean?</p> <p>18 A. I mean correct is the answer to</p> <p>19 your question.</p> <p>20 The question I thought you asked</p> <p>21 was whether I had done any empirical work on</p> <p>22 that subject and I am saying correct, I have</p> <p>23 not done any empirical work on that subject.</p> <p>24 Q. As between Major League Baseball</p> <p>25 and boxing, have you done any empirical work?</p>



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<p>1 A. Zimbalist - Confidential</p> <p>2 A. I need more to the question.</p> <p>3 Finish the question.</p> <p>4 Q. To determine what the degree of</p> <p>5 variation between the ratio of MRP of</p> <p>6 athletes to event revenue would be.</p> <p>7 A. In baseball relative to boxing?</p> <p>8 Q. Correct.</p> <p>9 A. No, I have not.</p> <p>10 Q. Have you done that with respect to</p> <p>11 -- have you done empirical work with respect</p> <p>12 to any of the sports you use in your</p> <p>13 comparisons to determine what the</p> <p>14 relationship or the degree of variation</p> <p>15 between the event -- the ratio of marginal</p> <p>16 revenue product of athletes to event revenue</p> <p>17 is?</p> <p>18 A. By event, no, I have not.</p> <p>19 Q. Have you done it in some other way?</p> <p>20 MR. CRAMER: Objection to form.</p> <p>21 A. Have I done what in some other way?</p> <p>22 Q. I asked if you did any empirical</p> <p>23 work. You responded, by event, no, I have</p> <p>24 not.</p> <p>25 MR. CRAMER: You were asking about</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 and so when you ask me, have I done analysis</p> <p>3 of the ratio of the combined marginal revenue</p> <p>4 product of the league to the revenue in the</p> <p>5 league, the answer is that, because I have</p> <p>6 studied the ratio of compensation to league</p> <p>7 revenue, and I believe that there is a close</p> <p>8 correlation between compensation and marginal</p> <p>9 revenue product in those leagues, the answer</p> <p>10 is yes, I have studied it.</p> <p>11 Q. That wasn't my question.</p> <p>12 My question is, have you done</p> <p>13 empirical analysis?</p> <p>14 MR. CRAMER: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. What empirical analysis have you</p> <p>17 done?</p> <p>18 A. Well, I'm not sure I can remember</p> <p>19 everything I have done in my career on that</p> <p>20 subject, but one piece of empirical analysis</p> <p>21 that I have done is presented in my first</p> <p>22 expert report in this matter.</p> <p>23 Q. Let me make sure I'm asking the</p> <p>24 right question.</p> <p>25 What empirical analysis have you</p>
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<p>1 A. Zimbalist - Confidential</p> <p>2 events.</p> <p>3 Q. I'm asking now if you have done</p> <p>4 empirical analysis by some other metric?</p> <p>5 MR. CRAMER: Form.</p> <p>6 You may answer.</p> <p>7 A. It's a difficult question to answer</p> <p>8 because remember what I said earlier, which</p> <p>9 is that in each of these sports, you have</p> <p>10 what I would describe as a pretty open</p> <p>11 market, pretty -- and relatively speaking, a</p> <p>12 competitive labor market and I believe that</p> <p>13 in such a market, what employers do is to</p> <p>14 offer labor up to the expected marginal</p> <p>15 revenue product of labor. That's what a</p> <p>16 profit maximizing employer or team would do.</p> <p>17 There are certain constraints in</p> <p>18 each of the leagues that you are talking</p> <p>19 about and with boxing, that means that some</p> <p>20 athletes go to the table constrained from a</p> <p>21 completely free bargaining with the employer,</p> <p>22 but as a generalization, I think that the</p> <p>23 aggregate compensation in these leagues comes</p> <p>24 close to even if it doesn't fully reach the</p> <p>25 aggregate expected marginal revenue product</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 done to establish the degree of variation</p> <p>3 between marginal revenue product of athletes</p> <p>4 and revenue by league?</p> <p>5 MR. CRAMER: Asked and answered,</p> <p>6 form.</p> <p>7 A. I'm thinking it's the same question</p> <p>8 that you've asked me and that I've answered,</p> <p>9 except that maybe you entered in a new</p> <p>10 phrase, which is the degree of variability.</p> <p>11 Is that a distinguishing feature of</p> <p>12 the last question?</p> <p>13 Q. No. When I asked the question</p> <p>14 before, I was asking specifically about event</p> <p>15 revenue and you said you had not done --</p> <p>16 A. Then we passed on to -- anything</p> <p>17 you said, not just event revenue, because I</p> <p>18 asked you about that and we passed on to the</p> <p>19 question of anything, have you studied it in</p> <p>20 any terms, and then I answered you with</p> <p>21 regard to year wide.</p> <p>22 Q. So for year wide, what specific</p> <p>23 empirical analysis have you done to assess</p> <p>24 the variability between MRP of athletes and</p> <p>25 revenue of the league in which the athletes</p>

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<p>1 A. Zimbalist - Confidential</p> <p>2 compete?</p> <p>3 MR. CRAMER: Objection to form,</p> <p>4 asked and answered.</p> <p>5 A. So I think -- I have to combine</p> <p>6 some of the things I said before in order to</p> <p>7 answer that, but I have studied in baseball</p> <p>8 the relationship between MRP and compensation</p> <p>9 and I have told you that I've studied labor</p> <p>10 markets in really all of the professional</p> <p>11 team sports and that I believe that there is</p> <p>12 very close correspondence between</p> <p>13 compensation and MRP and I've told you, as</p> <p>14 well, that I have studied the relationship</p> <p>15 between compensation and revenue in the four</p> <p>16 team sport leagues we are talking about and</p> <p>17 presented some of that evidence in my first</p> <p>18 report.</p> <p>19 So to the extent that all of that</p> <p>20 represents what you are talking about, then I</p> <p>21 have done some of that.</p> <p>22 Q. So what specifically -- never mind.</p> <p>23 Have you conducted empirical</p> <p>24 analysis that would actually determine the</p> <p>25 degree of variability between MRP of athletes</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 that work with regard to wage share and</p> <p>3 revenue and I'm saying that I think there is</p> <p>4 a close correspondence between MRP and</p> <p>5 compensation, so there is an indirect</p> <p>6 relationship there. It's not direct.</p> <p>7 MRP, as I said in both of my</p> <p>8 reports and as Voyer (phonetic), and Topel</p> <p>9 and Blair, I think, have all agreed, the MRP</p> <p>10 is not directly observable, so if you are</p> <p>11 asking me if I have done it directly, the</p> <p>12 answer is no.</p> <p>13 Assuming I understand your</p> <p>14 question, if I have done it indirectly, I</p> <p>15 think the answer is yes.</p> <p>16 Q. So with your indirect work, what</p> <p>17 conclusions have you made to quantify the</p> <p>18 variability between marginal revenue product</p> <p>19 of athletes and revenue for their respective</p> <p>20 leagues?</p> <p>21 MR. CRAMER: Objection, asked and</p> <p>22 answered, form and foundation.</p> <p>23 A. I have an article that appeared in</p> <p>24 the Journal of Sport Economics about 10 years</p> <p>25 ago that looks at the variability of wage</p>
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<p>1 A. Zimbalist - Confidential</p> <p>2 and the revenue of the leagues in which they</p> <p>3 compete?</p> <p>4 MR. CRAMER: Objection to form.</p> <p>5 Answer, if you understand.</p> <p>6 A. Let me see if I can restate that.</p> <p>7 Have I done empirical work to determine the</p> <p>8 degree of variability between athlete MRP and</p> <p>9 league revenue?</p> <p>10 Q. Actually, let me rephrase that</p> <p>11 question.</p> <p>12 Have you done empirical work to</p> <p>13 determine and quantify the degree of</p> <p>14 variability between athlete MRP and league</p> <p>15 revenue?</p> <p>16 MR. CRAMER: Compound, asked and</p> <p>17 answered, form.</p> <p>18 A. I have to -- I will say what I just</p> <p>19 said. I think it qualifies as a yes, given</p> <p>20 what I said before that I have done. You may</p> <p>21 think it qualifies as a no. I think -- what</p> <p>22 I'm saying to you is that I have done work</p> <p>23 that is indirect around MRP and league-wide</p> <p>24 revenue, the relationship and the variability</p> <p>25 of that, it's indirect, because I have done</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 share within the leagues and between the</p> <p>3 leagues.</p> <p>4 The variability that you are</p> <p>5 referring to changes, depending on what time</p> <p>6 period you are considering, so it doesn't</p> <p>7 stay the same over time.</p> <p>8 Q. In the work that you've done, would</p> <p>9 you expect that leagues with higher overall</p> <p>10 revenue would have higher player shares as</p> <p>11 compared to leagues with lower revenue?</p> <p>12 A. In the work that I have done, I</p> <p>13 would expect that leagues with higher revenue</p> <p>14 would -- did you say higher player shares or</p> <p>15 lower player shares?</p> <p>16 Q. Higher player shares.</p> <p>17 A. No, I would not.</p> <p>18 Q. Wouldn't it be the case that</p> <p>19 leagues with higher revenues would be less</p> <p>20 affected by certain basic costs than leagues</p> <p>21 with lower revenues?</p> <p>22 MR. CRAMER: Objection to form.</p> <p>23 A. You know, it's a difficult question</p> <p>24 the way you formulated it because what you</p> <p>25 seem to be saying is that the inputs stay the</p>



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<p>1 A. Zimbalist - Confidential</p> <p>2 you rely on from Professor Dietz' report, did</p> <p>3 you do anything to independently verify that</p> <p>4 data?</p> <p>5 A. I did some things, yes. I looked</p> <p>6 at the -- as I recall, I looked at the</p> <p>7 revenue that was reported and the</p> <p>8 compensation that was reported for several</p> <p>9 years. I looked at, I believe -- it's been a</p> <p>10 while, but I believe I looked at some of the</p> <p>11 individual athlete compensation.</p> <p>12 Q. How did looking at that data</p> <p>13 independently verify the data?</p> <p>14 MR. CRAMER: Objection to form.</p> <p>15 A. Well, first of all, Professor Dietz</p> <p>16 was given access to the entirety of the</p> <p>17 Golden Boy record to write his report. He</p> <p>18 was working for Golden Boy. The data that I</p> <p>19 used was his data and happens to be more</p> <p>20 complete than the data that Dr. Blair</p> <p>21 referred to, which has smaller numbers and,</p> <p>22 in fact, on the compensation side, if I</p> <p>23 remember correctly, he has total compensation</p> <p>24 for all the Golden Boy fighters being close</p> <p>25 to what compensation was received by one</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 no, of course not, it's not, but under the</p> <p>3 circumstances, under which the Dietz data was</p> <p>4 provided and the circumstance that there was</p> <p>5 a boxer, Sol Alvarez, who earned \$13.3</p> <p>6 million, and that that number, in and of</p> <p>7 itself -- let me take a look here, that</p> <p>8 number, \$13.3 million is almost double what</p> <p>9 Dr. Blair represents is the entirety of</p> <p>10 compensation to all of Golden Boy's fighters</p> <p>11 in 2016, then I think it is pretty sound</p> <p>12 evidence that the data that Roger Blair was</p> <p>13 looking at was incomplete.</p> <p>14 Q. So what steps did you take to</p> <p>15 confirm that the information related to</p> <p>16 Alvarez was correct?</p> <p>17 A. I can't remember if that particular</p> <p>18 number appears in the Dietz report or not.</p> <p>19 It's been a while since I looked at it.</p> <p>20 Q. With respect to the data in the</p> <p>21 Dietz report, what steps did you take to</p> <p>22 independently verify the data?</p> <p>23 A. I didn't take any steps to</p> <p>24 independently verify the data.</p> <p>25 Q. For the information that you used</p>
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<p>1 A. Zimbalist - Confidential</p> <p>2 single boxer, so that's the basis for my</p> <p>3 saying that what Roger Blair offered was</p> <p>4 incomplete and unrepresentative.</p> <p>5 Q. So if there had been errors in the</p> <p>6 data that Dietz relied on, would more data</p> <p>7 suggest that it was more reliable?</p> <p>8 MR. CRAMER: Objection to form.</p> <p>9 A. So you are postulating that Golden</p> <p>10 Boy had two releases of data, one release was</p> <p>11 earlier to Dietz and they later discovered</p> <p>12 that there were errors in that data, so they</p> <p>13 took out that data and then they provided new</p> <p>14 data that Dr. Blair looked at.</p> <p>15 Is that what you are asking me?</p> <p>16 Q. You said you verified the data by</p> <p>17 comparing it to Professor Blair's data that</p> <p>18 he used?</p> <p>19 A. In part.</p> <p>20 Q. And you concluded there was more</p> <p>21 data that was in Dietz' report than in the</p> <p>22 data that Professor Blair used.</p> <p>23 Is more data necessarily more</p> <p>24 reliable data?</p> <p>25 A. So, necessarily in the abstract,</p>	<p>1 A. Zimbalist - Confidential</p> <p>2 to calculate benefits for players in the NFL,</p> <p>3 what was the source of that information?</p> <p>4 A. Can you direct me to where I do</p> <p>5 that, please?</p> <p>6 Q. Actually, let me direct you to a</p> <p>7 specific email that was in the backup data.</p> <p>8 Maybe that will refresh you.</p> <p>9 (Exhibit 12, email, marked for</p> <p>10 identification.)</p> <p>11 Q. I will be handing you an exhibit</p> <p>12 marked Exhibit 12.</p> <p>13 A. Okay.</p> <p>14 Q. Does this document look familiar to</p> <p>15 you?</p> <p>16 A. Not really, but I remember</p> <p>17 exchanging an email and getting information</p> <p>18 from Jonathan Kraft about this, so even</p> <p>19 though I don't recognize it, I don't</p> <p>20 physically recognize the email, I think that</p> <p>21 I did get this information from Jonathan.</p> <p>22 Q. Who is Jonathan Kraft?</p> <p>23 A. He is the owner or one of the two</p> <p>24 owners, principal owners of the New England</p> <p>25 Patriots.</p>